

BUSINESS & Classifieds

Tue. 03.03.09

Maywood non-profit is helping provide a voice to people with aphasia. 2



New Jersey advances that will aid lending by banks and credit unions.



DOW

299.64 Close 6,763.29

S&P 500

34.27 Close 700.82

NASDAQ

54.99 Close 1,332.32

ASK A LAWYER Contractor faces a loss in builder's bankruptcy

Q. As a contractor, how do I protect my rights in the face of homebuilder bankruptcies?

Falling home prices, a challenging economic climate, liquidity issues, and lack of access to financing could force many more homebuilders into bankruptcy in 2009.

A homebuilder's bankruptcy filing has serious implications for a contractor's ability to exercise the rights and remedies it otherwise may have against the homebuilder. For example, the Bankruptcy Code generally prohibits the filing of a lien on property of the bankrupt homebuilder. However, if the claimant in a residential lien claim files a Notice of Unpaid Balance and Right to File Lien under the New Jersey Construction Lien Law and obtains a favorable decision from an arbitrator fixing the amount of the valid lien claim before the homebuilder files for bankruptcy, the contractor may be entitled to perfect its lien for unpaid invoices and preserve its lien rights even after the bankruptcy is commenced.

Properly perfected lien claims have higher priority than unsecured creditors in a bankruptcy proceeding's distribution scheme. Contractors faced with a homebuilder's bankruptcy should consult their attorney to obtain advice on the protection of their claims, rights and remedies.

Ryan T. Jareck is an associate in the bankruptcy department of Cole Schotz Meisel Forman & Leonard PA, the largest law firm in Bergen County. He can be reached at 201-525-6278 or rjareck@coleschotz.com. This column is not intended as legal advice, which can be given only after the attorney understands the facts of a particular matter and the goals of a client.

Do you have a business question for a lawyer? E-mail businessnews@northjersey.com.